

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

ONE PARK PLACE INVESTORS, LLC  
AND PARK PLACE KC, LLC

Plaintiffs,

v.

Case No.: 4:23-cv-847

MESA UNDERWRITERS SPECIALTY  
INSURANCE COMPANY f/k/a  
MONTPELIER U.S. INSURANCE  
COMPANY,

Defendant.

**DEFENDANT MESA UNDERWRITERS SPECIALTY INSURANCE COMPANY  
F/K/A MONTPELIER U.S. INSURANCE COMPANY’S NOTICE OF REMOVAL**

Defendant Mesa Underwriters Specialty Insurance Company f/k/a Montpelier U.S. Insurance Company (“MUSIC”), by and through its undersigned counsel of record, and with full reservation of all defenses, objections, exceptions, including but not limited to service, jurisdiction, venue and statute of limitations, hereby removes the above-captioned matter from the Circuit Court of Jackson County, Missouri to the United States District Court for the Western District of Missouri, Western Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this removal, MUSIC states as follows:

**I. THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED**

1. This action is presently pending in the Circuit Court of Jackson County, Missouri at Kansas City under Case No. 2316-CV27811 (the “Action”). One Park Place Investors, LLC (“OPPI”) and Park Place KC, LLC (“PPKC,” and, collectively, “Plaintiffs”) filed their Petition on October 18, 2023.

2. On October 18, 2023, Meredith Webster, undesigned counsel of record for MUSIC, agreed to accept service on behalf of MUSIC and was served a copy of the Petition via electronic mail from Lynn Hursh, counsel for Plaintiffs. MUSIC has not yet answered Plaintiffs' Petition in this Action.

3. Pursuant to 28 U.S.C. § 1446(b), MUSIC has thirty (30) days from the receipt of the Summons and Petition to seek removal of the Action to this Court. Accordingly, this Notice of Removal is timely filed.

4. As required by 28 U.S.C. § 1446(a), a copy of all records and proceedings from the Circuit Court of Jackson County, Missouri at Kansas City are attached hereto as **Exhibit A**.

5. In accordance with 28 U.S.C. § 1446(d), MUSIC is filing a written notice of this removal, including a copy of this Notice of Removal, with the Clerk of the Circuit Court of Jackson County, Missouri. A copy of this Notice of Removal and the written notice of the same are also being served upon Plaintiffs. A copy of the Notice of Filing Notice of Removal (without attachments) is attached hereto as **Exhibit B**.

## **II. DIVERSITY JURISDICTION EXISTS**

6. This Court has original jurisdiction over this Action pursuant to 28 U.S.C. § 1332(a) because the amount in controversy, exclusive of interests and costs, that is alleged by Plaintiffs exceeds the sum of \$75,000 and there is complete diversity of citizenship between the Plaintiffs and MUSIC. Thus, this Action may be removed to this Court pursuant to 28 U.S.C. § 1441.

### **a. The Parties Are Completely Diverse**

7. OPPI states in its Petition that it is a Delaware Limited Liability Company that is authorized to do business and is doing business in the State of Missouri. *See Ex. A, pg. 2*.

8. PPKC states in its Petition that it is a Delaware Limited Liability Company that is

also authorized to do business and is doing business in the State of Missouri. *See* **Ex. A, pg. 2.**

9. None of the members of OPPI and/or PPKC is domiciled in Missouri. In an email dated October 23, 2023, Ms. Webster inquired with Mr. Hursh as to the identities and citizenship as to all the members of OPPI and PPKC. Mr. Hursh responded on October 27, 2023, that all members are all overseas or domiciled in the States of California and Delaware. *See* email thread dated October 27, 2023 and attached hereto as **Exhibit C.**

10. At all relevant times, MUSIC was incorporated in the State of New Jersey and its principal place of business was at 40 Wantage Avenue, Branchville, New Jersey 07890. *See* Declaration of JoAnne McGovern, attached hereto as **Exhibit D.**

11. Complete diversity exists between the parties because the Plaintiffs' members are domiciled in countries or states that are not New Jersey, where MUSIC is domiciled.

**b. The Amount in Controversy Requirement Is Satisfied**

11. The amount in controversy exceeds \$75,000, exclusive of interest and costs. Plaintiffs allege that MUSIC owes them reimbursement in the amount of \$516,577.75. *See* Ex. A-Petition, p. 10, ¶ 74.

12. Accordingly, based on the preponderance of the evidence, more than \$75,000 is in controversy, and therefore, the amount in controversy requirement of 28 U.S.C. § 1332(a) has been met.

**WHEREFORE,** Defendant Mesa Underwriters Specialty Insurance Company f/k/a Montpelier U.S. Insurance Company respectfully removes this Action from the Circuit Court of Jackson County, Missouri at Kansas City, to the United States District Court, Western District of Missouri, Western Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. Should any questions arise as to the propriety of this removal, MUSIC respectfully requests an opportunity to provide

briefing and oral argument.

Dated: November 17, 2023

Respectfully submitted:

/s/ Meredith A. Webster

Larry D. Fields MO #39426

Meredith A. Webster MO #63310

KUTAK ROCK LLP

2300 Main Street, Suite 800

Kansas City, MO 64108

(816) 960-0090 (Telephone)

(816) 960-0041 (Facsimile)

[larry.fields@kutakrock.com](mailto:larry.fields@kutakrock.com)

[meredith.webster@kutakrock.com](mailto:meredith.webster@kutakrock.com)

**ATTORNEYS FOR DEFENDANT MESA**

**UNDERWRITERS SPECIALTY**

**INSURANCE COMPANY f/k/a**

**MONTPELIER U.S. INSURANCE**

**COMPANY**

### **CERTIFICATE OF SERVICE**

I hereby certify that on November 17, 2023, a true and correct copy of the above and foregoing ***Notice of Removal*** was filed with the Clerk of the Court of the Western District of Missouri by using the CM/ECF electronic filing system, which will send notification of such filing to the following counsel of record:

Lynn W. Hursh

Pamela J. Winter

Armstrong Teasdale LLP

2345 Grand Boulevard, Suite 1500

Kansas City, Missouri 64108-2617

[lhursh@atllp.com](mailto:lhursh@atllp.com)

[pwinter@atllp.com](mailto:pwinter@atllp.com)

**Attorneys for Plaintiffs**

s/ Meredith A. Webster

Attorney for Defendant